

SMITH & MYERS LLP
800 Wilshire Boulevard, Suite 800
Los Angeles, California 90017
Tel: (213) 613-2380 Fax: (213) 613-2395

Thomas Myers (CA SBN 120674)
myers@smithmyerslaw.com
SMITH & MYERS LLP
800 Wilshire Boulevard, Suite 800
Los Angeles, California 90017
Telephone: (213) 613-2380
Facsimile: (213) 613-2395

Ángel J. Valencia (*Pro Hac Vice Application to be Filed*)
ajv@nrtw.org
Milton L. Chappell (*Pro Hac Vice Application to be Filed*)
mlc@nrtw.org
c/o NATIONAL RIGHT TO WORK LEGAL
DEFENSE FOUNDATION, INC.
8001 Braddock Road, Suite 600
Springfield, Virginia 22151
Telephone: (703) 321-8510
Facsimile: (703) 321-9319

Attorneys for Plaintiff and the Classes She Seeks to Represent

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

IRENE SEAGER, individually and as
representative of the requested classes,

Plaintiff,

v.

**UNITED TEACHERS LOS
ANGELES; LOS ANGELES
UNIFIED SCHOOL DISTRICT;
XAVIER BECERRA**, in his official
capacity as Attorney General of
California,

Defendants.

) Case No: 2:19-cv-00469

) **COMPLAINT –
CLASS ACTION**

) Constitutional Violation Action
) (42 U.S.C. § 1983), Declaratory
) Judgment, Injunctive Relief

SMITH & MYERS LLP
800 Wilshire Boulevard, Suite 800
Los Angeles, California 90017
Tel: (213) 613-2380 Fax: (213) 613-2395

INTRODUCTION

1
2 1. On June 27, 2018, the Supreme Court held it unconstitutional for
3 public-sector unions and employers to collect/deduct union dues or fees from
4 public employees without their affirmative consent and a knowing waiver of their
5 First Amendment rights. *Janus v. AFSCME, Council 31*, 138 S.Ct. 2448, 2486
6 (2018).
7

8
9 2. Plaintiff Irene Seager (“Seager”) is a public employee of the Los
10 Angeles Unified School District (“Los Angeles District”) and is employed in a
11 bargaining unit represented by United Teachers Los Angeles (“UTLA”).
12

13 3. After being notified of Seager’s decision to revoke any prior dues
14 authorization, Los Angeles District and UTLA, directly or indirectly, nonetheless
15 continues to deduct dues from her paychecks, in furtherance of UTLA’s restrictive
16 revocation policies.
17

18 4. UTLA and Los Angeles District violate the First Amendment rights of
19 Seager and of the proposed class of public employees subject to UTLA’s
20 revocation policy, by collecting/deducting union dues from their wages without
21 their knowing consent, thereby severely restricting their exercise of their First
22 Amendment right under *Janus* not to subsidize unions.
23

24 5. Defendants maintain and enforce policies, including the dues
25 deduction provisions of the existing collective bargaining agreement between
26 UTLA and Los Angeles District. Under these policies, UTLA collects, directly or
27
28

1 indirectly, union dues from the wages of public employees, even from those who
 2 have notified UTLA of their resignation from union membership and revocation
 3 of their prior dues deduction authorizations.
 4

5 6. Seager brings this civil rights action, pursuant to 42 U.S.C. § 1983 on
 6 behalf of herself and all other similarly situated employees, seeking: (a) a
 7 judgment declaring the revocation restrictions and the deduction of union dues or
 8 fees without the employees' affirmative consent and knowing waiver of First
 9 Amendment rights are unconstitutional and unenforceable; (b) judgment declaring
 10 the restrictive revocation policy found in the dues deductions authorization, which
 11 limits employees' dues deductions revocation rights to a yearly 30-day window,
 12 violates the First Amendment and is null and void; (c) injunctive relief that
 13 prohibits the maintenance and enforcement of the unconstitutional policies,
 14 actions and provisions, along with compensatory and nominal damages; (d)
 15 judgment declaring the application of Cal. Educ. Code § 45060(a) as
 16 unconstitutional for violating the First Amendment; and (e) costs and attorneys'
 17 fees under 42 U.S.C. § 1988.
 18
 19
 20
 21

22 JURISDICTION AND VENUE

23
 24 7. This is an action that arises under the Federal Civil Rights Act of 1871,
 25 42 U.S.C. § 1983, to redress the deprivation, under color of state law, of rights,
 26 privileges and immunities secured to Plaintiff Seager and all class members by the
 27 Constitution of the United States, particularly the First and Fourteenth
 28

1 Amendments.

2 8. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and
3 28 U.S.C. § 1343.
4

5 9. This action is an actual controversy in which Plaintiff Seager seeks a
6 declaration of her rights under the Constitution of the United States. Pursuant to
7 28 U.S.C. §§ 2201-2202, this Court may declare Plaintiff Seager's rights and grant
8 further necessary and proper relief based thereon, including injunctive relief
9 pursuant to Federal Rule of Civil Procedure 65.
10

11 10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the
12 claims arise in this judicial district and division and Defendants operate and do
13 business in this judicial district and division.
14

15 **PARTIES**
16

17 11. Plaintiff Irene Seager resides in Ventura County, California and works
18 in Los Angeles County, California.
19

20 12. Defendant United Teachers Los Angeles ("UTLA"), whose office is
21 located at 3303 Wilshire Boulevard, 10th Floor, Los Angeles, California 90010 is a
22 local public sector labor union. UTLA is the exclusive representative for
23 collective bargaining purposes of thousands of public-school teachers and
24 educators throughout the Los Angeles area. UTLA entered into a collective
25 bargaining agreement with the Los Angeles Unified School District, which terms
26 are enforced on bargaining unit members.
27
28

13. Defendant Los Angeles Unified School District, whose Northwest District Office address is located at 333 South Beaudry Avenue, Los Angeles, California 90017, is a public-school district serving Los Angeles County, California. It is responsible for deducting dues from Plaintiff Seager and remitting them to UTLA.

FACTUAL ALLEGATIONS

16. At all relevant times, Seager has been subject to the exclusive representation of UTLA and subject to the collective bargaining agreement between Los Angeles District and UTLA.

18. On June 27, 2018, the Supreme Court in *Janus* held forced fee

1 requirements unconstitutional and that public employees had a First Amendment
 2 right not to have any union dues or fees deducted from their wages without their
 3 affirmative consent and knowing waiver of their First Amendment rights. 138
 4 S.Ct. at 2486.
 5

6 19. After *Janus* was decided, Seager notified UTLA on July 18, 2018 and
 7 August 24, 2018, in writing, of her resignation as a member of UTLA and that she
 8 did not consent to any deduction of union dues or fees from her wages. UTLA
 9 responded in writing denying her request.
 10

11 20. UTLA's dues deduction authorization form signed by Seager states:

12 "I recognize the need for a strong UTLA and believe
 13 everyone represented by our union should pay their fair
 14 share to support our union's activities. I hereby (1) agree
 15 to pay regular monthly dues uniformly applicable to
 16 members of UTLA; and (2) request and voluntarily
 17 authorize my employees to deduct from my earnings and
 18 to pay over to UTLA such dues. This agreement to pay
 19 dues shall remain in effect and shall be irrevocable unless
 20 I revoke it by sending written notice via U.S. mail to
 21 UTLA during the period no less than thirty (30) days and
 22 no more than sixty (60) days before the annual
 23 anniversary date of this agreement or as otherwise
 24 required by law. This agreement shall be automatically
 25 renewed from year to year unless I revoke it in writing
 26 during the window period, irrespective of my
 27 membership in UTLA."
 28

21. UTLA's dues deduction authorization does not contain any language
 26 informing potential signatories: (1) that they have a First Amendment right not to
 27 subsidize the union and its speech; or (2) that, by signing the cards, they are
 28

1 waiving their First Amendment right to not subsidize UTLA and its speech.

2 22. UTLA's restrictive revocation policy is enforced by Los Angeles
3 District that, in coordination with UTLA and at its behest, deducts union dues
4 from employees' wages and remits those monies to UTLA pursuant to dues
5 deduction agreements and dues checkoff provisions. UTLA and Los Angeles
6 District have failed and refused to terminate their restrictive revocation policy
7 after Seager's notification of revocation of consent for such deductions.
8

9
10 23. Pursuant to its restrictive revocation policy, Defendants continued to
11 collect and deduct union dues from Seager and other employees after they notified
12 UTLA that they did not consent to paying union dues. Unless enjoined from so
13 doing, UTLA and Los Angeles District will continue to collect/deduct union dues
14 from employees.
15

16
17 24. On information and belief, Defendants have enforced, and will
18 continue to enforce, the restrictive revocation policy by collecting and deducting
19 union dues from employees who notified UTLA that they do not consent to
20 paying union dues.
21

22 CLASS ACTION ALLEGATIONS

23
24 25. Plaintiff Seager brings this case as a class action pursuant to Federal
25 Rules of Civil Procedure 23(b)(1)(A) and (b)(2), and, alternatively, 23(b)(3), for
26 herself and for all others similarly situated, and any subclasses deemed
27 appropriate by this Court, as described in the following classes:
28

SMITH & MYERS LLP
800 Wilshire Boulevard, Suite 800
Los Angeles, California 90017
Tel: (213) 613-2380 Fax: (213) 613-2395

1 26. Plaintiff Seager is the class representative of the “Revocation Class”,
2 which consists of individuals: (a) who are Los Angeles Unified School District
3 employees exclusively represented by UTLA or one of its affiliates for purposes
4 of collective bargaining, (b) who resigned union membership and revoked their
5 consent to the payment of any union dues, and (c) who had or are still having
6 union dues deducted from their wages in spite of such resignation and revocation
7 request. The class includes everyone who comes within the class definition at any
8 time from the time of resignation from union membership and revocation of
9 consent to the payment of dues.
10

11
12 27. Plaintiff Seager is the class representative of the “Full Dues Class”,
13 which consists Los Angeles Unified School District employees exclusively
14 represented by UTLA or one of its affiliates for purposes of collective bargaining
15 who are subject or become subject to Defendants’ restrictive revocation policy.
16
17

18 28. Upon information and belief, there are hundreds, if not thousands, of
19 class members in each of the classes described above. Their number is so
20 numerous that joinder is impractical. The precise number of class members is
21 unknown to Plaintiff Seager, but it is clear that the number greatly exceeds the
22 number to make joinder feasible.
23
24

25 29. There are questions of law and fact common to all Revocation and Full
26 Dues class members. Factually, all have had union dues deducted from their
27 wages and are or were subject to the same or similar restrictive revocation policy.
28

1 For Seager and Full Dues class members, the dispositive legal question is whether
2 Defendants' maintenance and enforcement of their restrictive revocation policy
3 violates the First Amendment. For Seager and Revocation class members, the
4 dispositive legal question is whether the deduction and collection of full union
5 dues from employees' wages subsequent to their resignation and revocation of
6 dues deductions violates their rights under the First Amendment.
7
8

9 30. Seager's claims and defenses are typical of the Full Dues class
10 members' claims because they concern whether Defendants' restrictive revocation
11 policy unlawfully restricts employees' First Amendment rights.
12

13 31. Seager's claims and defenses are typical of the Revocation class
14 members' claims because Defendants have seized and collected or are currently
15 seizing and collecting dues from Seager and Revocation class members in
16 violation of their First Amendment right to not subsidize union activity without
17 their affirmative consent and known waiver of that First Amendment right, as
18 recognized by the U.S. Supreme Court in *Janus v. AFSCME* on June 27, 2018.
19
20

21 32. Plaintiff Seager can fairly and adequately represent the interests of
22 both classes and has no conflict with other, similarly situated class members.
23 Seager has no interest antagonistic to others who have been subjected by
24 Defendants to the aforementioned restrictive revocation policy and union dues
25 deductions scheme.
26
27

28 33. Plaintiff Seager's counsel has considerable experience handling class

1 actions and the types of claims asserted in the instant complaint. Moreover,
2 Plaintiff Seager's counsel is knowledgeable in the applicable law and possesses
3 the necessary resources for committing to representing the class.
4

5 34. The Revocation Class identified above can be maintained under
6 Federal Rule of Civil Procedure 23(b)(1)(A) because Defendants' duty to cease
7 the union dues deductions and collections applies equally to Seager and class
8 members, and the prosecution of separate actions by individual class members
9 would create a risk of inconsistent or varying adjudications, which would establish
10 incompatible standards of conduct for Defendants.
11

12 35. The Revocation Class can be maintained under Federal Rule of Civil
13 Procedure 23(b)(1)(B) because an adjudication determining the constitutionality
14 of union dues deductions in the aforementioned circumstances as to one of the
15 class members, as a practical matter, will be dispositive of the interests of all class
16 members or would substantially impair or impede the other class members' ability
17 to protect their interests.
18

19 36. The Revocation Class can be maintained under Federal Rule of Civil
20 Procedure 23(b)(2) because Defendants have acted to deprive Seager and class
21 members of their constitutional rights on grounds generally applicable to all,
22 thereby making declaratory, injunctive, and other equitable relief appropriate with
23 regard to the class as a whole.
24

25 37. Alternatively, the Revocation Class can be maintained under Federal
26
27
28

1 Rule of Civil Procedure 23(b)(3) because questions of law or fact common to the
2 members of the class predominate over any questions affecting only individual
3 members, in that the important and controlling questions of law or fact are
4 common to all class members, i.e., whether the aforementioned dues deductions
5 violate their First Amendment rights and whether the restrictive revocation policy
6 constitutes a valid waiver of a constitutional right when it was ratified before the
7 right not to subsidize union activity was recognized by the U.S. Supreme Court in
8 *Janus v. AFSCME* on June 27, 2018.

11 38. The class action is superior to other available methods for the fair and
12 efficient adjudication of the controversy, inasmuch as the individual respective
13 class members are deprived of the same rights by Defendants' actions, differing
14 only in the amount of money deducted. This fact is known to Defendants and
15 easily calculated from Defendants' business records. The limited amount of
16 money involved in the case of each individual's claim would make it burdensome
17 for the respective class members to maintain separate actions.

18 39. The Full Dues Class can be maintained under Federal Rule of Civil
19 Procedure 23(b)(1)(A) because separate class actions by Full Dues class members
20 could risk inconsistent adjudications that would establish incompatible standards
21 of conduct for Defendants.

22 40. The Full Dues Class can be maintained under Federal Rule of Civil
23 Procedure 23(b)(1)(B) because an adjudication determining the constitutionality
24
25
26
27
28

1 of Defendants' maintenance of their restrictive revocation policy will, as a
2 practical matter, be dispositive of the interests of all Full Dues class members or
3 substantially impair or impede their ability to exercise their First Amendment
4 rights.
5

6 41. The Full Dues Class can be maintained under Federal Rule of Civil
7 Procedure 23(b)(2) because by maintaining and enforcing their restrictive
8 revocation policy, Defendants have acted or refused to act on grounds that apply
9 generally to members of the Full Dues Class, so that final injunctive or declaratory
10 relief is appropriate for the Full Dues class as a whole.
11

12 CAUSES OF ACTION

13
14 42. Plaintiff Seager re-alleges and incorporates by reference the paragraphs
15 set forth above in this Complaint.
16

17 43. Under California law, "[a]ny revocation of a written authorization shall
18 be in writing and shall be effective provided the revocation complies with the
19 terms of the written authorization." Cal. Educ. Code § 45060(a). Defendants are
20 acting under color of state law, Cal. Educ. Code § 45060(a), by maintaining and
21 enforcing its restrictive revocation policy and by deducting/collecting union dues
22 from public employees who have notified their union and/or their employer that
23 they do not consent to paying union dues.
24

25
26 44. Seager is suing Defendants under 42 U.S.C. § 1983 and the
27 Declaratory Judgment Act, 28 U.S.C. § 2201 on behalf of herself and the
28

1 requested class.

2 **COUNT I**

3 **(Full dues deductions without consent and waiver of First Amendment rights**
4 **violate 42 U.S.C. § 1983 and the First and Fourteenth Amendments)**

5
6 45. Defendants' maintenance and enforcement of its restrictive revocation
7 policy and deduction of union dues from the wages of Seager and Revocation
8 class members without the affirmative authorization and knowing waiver of First
9 Amendment rights violates Seager's and class members' First Amendment rights
10 to free speech and association, as secured against state infringement by the
11 Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.
12

13
14 46. Furthermore, Defendants' continued deduction and collection of union
15 dues in spite of the decision to revoke any prior dues authorization violates
16 Seager's and Revocation class members' First Amendment rights to free speech
17 and association, as secured against state infringement by the Fourteenth
18 Amendment to the United States Constitution and 42 U.S.C. § 1983.
19

20
21 47. Under 42 U.S.C. § 1983, Seager and all class members are entitled to
22 have the enforcement of Cal. Educ. Code § 45060(a) declared unconstitutional for,
23 in contravention of their First Amendment rights to free speech and association,
24 allowing the imposition of Defendants' restrictive revocation policy and the
25 deduction of dues from employees who do not affirmatively consent to such
26 deductions.
27
28

1 48. The U.S. Supreme Court held that under the First Amendment,
2 “[n]either an agency fee nor any other payment to the union may be deducted
3 from a nonmember’s wages, nor may any other attempt be made to collect such
4 payment, unless the employee affirmatively consents to pay.” *Janus v. AFSCME*,
5 *Council 31*, 138 S.Ct. at 2486.
6

7 49. The U.S. Supreme Court in *Janus* further held that an individual’s
8 consent to pay union dues requires a waiver of First Amendment rights. *Id.* In
9 order to be effective, a waiver of First Amendment rights must be knowingly,
10 clearly and voluntarily made.
11

12 50. Defendants did not obtain from Seager, or Revocation class members a
13 valid waiver of their First Amendment rights under *Janus* prior to the deduction of
14 dues because, among other reasons, UTLA’s dues authorization form does not
15 clearly inform employees that they have First Amendment rights not to financially
16 support an exclusive representative. Nor does UTLA’s dues authorization form
17 expressly state that the employee agrees to waive or restrict his/her First
18 Amendment rights to an annual thirty (30) day window period.
19

20 51. Plaintiff Seager and Revocation class members are suffering the
21 irreparable harm and injury inherent in a violation of First Amendment rights, for
22 which there is no adequate remedy at law, as a result of being subjected to
23 Defendants’ restrictive revocation policies, provisions and continued deductions
24 of union dues.
25
26
27
28

COUNT II

(Defendants' Revocation Policy Deprives Plaintiff Seager, Full Dues Class Members and Revocation Class Members of their First Amendment Rights)

52. Defendants' restrictive revocation policy prohibits or prohibited Seager, Full Dues class members and Revocation class members from exercising their First Amendment rights under *Janus* to not subsidize a labor union and its speech.

53. Defendants did not obtain from Seager, Full Dues class members, or Revocation class members a valid waiver of their First Amendment rights under *Janus* because, among other reasons, UTLA's dues authorization form and Defendants' more restrictive revocation policy do not clearly inform employees that they have a First Amendment right not to financially support an exclusive representative. Nor do they expressly state that the employee agrees to waive or restrict his/her exercise of First Amendment rights to an annual thirty (30) day window period.

54. Defendants' restrictive revocation policy caused and continues to cause the deduction and collection of union dues from Seager, Full Dues class members and Revocation class members who do not consent to paying union dues or having union dues deducted from their wages.

55. Defendants' maintenance and enforcement of their restrictive revocation policy deprives Seager, Full Dues class members and Revocation class

1 members of their First Amendment rights to free speech and association, as
2 secured against infringement by the Fourteenth Amendment to the United States
3 Constitution and 42 U.S.C. § 1983.
4

5 **PRAYER FOR RELIEF**

6 Wherefore, Plaintiff Seager requests that this Court:

7
8 **A. Class Action:** Enter an order, as soon as practicable, certifying this
9 case as a class action, certifying the classes as defined in the complaint, certifying
10 Plaintiff Seager as class representative of both classes, and appointing Plaintiff
11 Seager's counsel as class counsel for the classes;
12

13 **B. Declaratory Judgment:** (i) Enter a declaratory judgment that the
14 restrictive revocation policies put in place by Defendants are unconstitutional
15 under the First Amendment, as secured against State infringement by the
16 Fourteenth Amendment and 42 U.S.C. § 1983, and unenforceable against Seager,
17 the Revocation and Full Dues class members; and (ii) Enter a declaratory
18 judgment that Defendants are violating Seager's and Revocation class members'
19 First Amendment rights as secured against State infringement by the Fourteenth
20 Amendment and 42 U.S.C. § 1983, by collecting and deducting union dues from
21 public employees who do not consent to paying union dues or who notify the
22 union that they no longer consent to paying union dues.
23
24
25

26 **C. Injunctive Relief:** (i) Permanently enjoin Defendants, along with their
27 officers, agents, servants, employees, attorneys, and any other person or entity in
28

SMITH & MYERS LLP
 800 Wilshire Boulevard, Suite 800
 Los Angeles, California 90017
 Tel: (213) 613-2380 Fax: (213) 613-2395

1 active concert or participation with them, from maintaining and enforcing their
 2 restrictive revocation policies and from collecting and deducting union dues from
 3 Plaintiff and other public employees who notify their union that they do not
 4 consent to paying union dues; (ii) Permanently enjoin Defendant Los Angeles
 5 Unified School District from carrying out dues deductions —pursuant to UTLA’s
 6 revocation policies— from Plaintiff’s and Revocation class members’ paychecks;
 7
 8 (iii) Order Defendants to reimburse Seager and Revocation class members the
 9 amount of money equal to the unlawfully and improperly withheld union dues
 10 deducted and collected subsequent to their revocation of their union deduction
 11 authorizations, plus applicable interest, and (iv) permanently enjoin the Attorney
 12 General of the State of California from enforcing Cal. Educ. Code § 45060(a) and
 13 all other provisions of California law that allow for Defendants’ restrictive
 14 revocation policy and the deduction of dues from employees who do not
 15 affirmatively consent to such deductions.
 16
 17
 18

19
 20 **D. Damages:** (i) Enter a judgment awarding Seager and Revocation class
 21 members compensatory damages, refunds or restitution in the amount of union
 22 dues deducted or required to be paid, directly or indirectly, to UTLA from their
 23 wages without their affirmative and knowing consent; (ii) Enter a judgment
 24 awarding nominal damages to Full Dues class members.
 25

26 **E. Costs and Attorneys’ Fees:** Award Plaintiff Seager and all class
 27 members their costs and reasonable attorneys’ fees pursuant to the Civil Rights
 28

1 Attorneys' Fees Award Act of 1976, 42 U.S.C. § 1988.

2 **F. Other Relief:** (i) Require UTLA to provide Plaintiff Seager and all
3 class members with written notice that its revocation policies are unconstitutional
4 and unenforceable and that they can exercise their First Amendment right to not
5 pay union dues without their consent at any time; and (ii) Grant other and
6 additional relief as the Court may deem just and proper.
7

8
9 **RESPECTFULLY SUBMITTED.**

10 Dated: January 22, 2019

SMITH & MYERS LLP

11
12
13 By /s/ Thomas Myers
14 Thomas Myers

15 Ángel J. Valencia
16 (*Pro Hac Vice* to be applied for)
17 Milton L. Chappell
18 (*Pro Hac Vice* to be applied for)

19 Attorneys for Plaintiff Irene Seager and
20 the Classes She Seeks to Represent
21
22
23
24
25
26
27
28

SMITH & MYERS LLP
800 Wilshire Boulevard, Suite 800
Los Angeles, California 90017
Tel: (213) 613-2380 Fax: (213) 613-2395